

BY-LAW No. 236,

OF THE

Township of Nichol,

RELATING TO

POUNDS & POUND KEEPERS,

&c., &c., &c.

Passed June 15th, A. D. 1869.



FERGUS:

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1869.

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BY-LAW No. 236.

THE CORPORATION OF THE TOWNSHIP OF NICHOL.

A BY-LAW for defining the duties of Pound Keepers in said Township ; restraining certain animals from running at large ; providing for impounding them, and causing them to be sold, in case they are not claimed within a certain time specified herein ; or in case the damages, fines and expenses are not paid according to law ; for appraising the damages to be paid by the owners of animals impounded for trespassing contrary to Law, or to the By-laws of the Municipality ; for determining the compensation to be allowed for services rendered in carrying out the provisions of this By-law, with respect to animals impounded or distrained, and detained in the possession of the distrainer. Also, for defining certain duties of Fence Viewers and other Officers necessary to carry out the provisions of this By-law. Also, for providing for other matters relating to Pounds and Pound Keepers ; and for repealing any other By-Law or By-Laws relating thereto, which may be inconsistent with the provisions hereinafter enacted.

WHEREAS it is considered necessary and expedient to pass a By-Law, for the purposes above mentioned and for other purposes relating thereto, which it may be considered necessary to provide for—therefore the Corporation of the Township of Nichol, by the Council thereof doth enact as follows—that is to say—

1st. That from and after the passing of this By-Law, Horses, Bulls, Rams, Breachey Cattle, Pigs of any description, Geese, Turkeys, or any other poultry, shall not be permitted to run at large within the Township of Nichol ; and if any Horse, Bull, Ram, Breachey Animal or Pig, shall be found running at large therein, the owner or owners shall be liable on conviction before a Justice of the Peace to a penalty of not less than one dollar, and not more than five dollars for each animal so found running at large, exclusive of damages ; and if any Goose, Turkey, or other Poultry shall be found running at large, the owner or owners shall be liable on conviction before a Justice of the Peace to a penalty of twenty-five cents for each, exclusive of damages, unless it can be satisfactorily shewn or proven that the animals or poultry enumerated above had broken out of their enclosure and were running at large unknown to the owner or owners—or that the owner or owners were dilligently searching for them—from the time they were aware that they had been at large, the owners however to be liable for any damages,

2nd. That fences to be considered lawful must be as follows, that is to say: that *Angled Rail Fences* must be at least 5½ feet in height—and must be well staked and ridged and constructed of good material:—that *Straight Rail Fences* shall not be less than four feet and six inches in height, and the Rails must be properly secured in their places by means of Posts sunk to a sufficient depth in the ground to keep them firm, or by Pickets properly and sufficiently sunk in the ground and fastened together at the top to keep them from spreading—the Fence to be constructed of good material. *Board, Picket and Stone Fences* must not be less than four feet and six inches in height, and must be constructed in a proper and substantial manner.

3rd. That the Fence Viewers shall have full power to determine in all cases, whether fences are properly constructed, and are sufficient according to the spirit of this By-Law.

4th. That Pound Keepers shall provide sufficient yards and enclosures, for the safe keeping of such animals, as it may be their duty to impound.

5th. That the division of each Pound Keeper shall extend over the *whole* of the Township.

6th. That Pound Keepers shall be allowed and entitled to the following fees and charges—that is to say: for impounding each Horse, Bull, Ox, Steer, Cow or Heifer, twenty-five cents. For impounding each Ram or Pig, ten cents. For impounding Geese or other Poultry, five cents each. For feeding each Horse, Bull, Ox, Steer, Cow or Heifer—with a sufficient quantity of Hay or Grass, and supplying it with water, for any period not exceeding 24 hours, 25 cents—and for each succeeding period of 24 hours, a like sum. For feeding each Ram or Pig during the time specified above, 10 cents—each Ram to be supplied with a sufficient quantity of hay and water, and each Pig to be supplied with half a gallon of grain and a sufficient quantity of water. For feeding each Goose, Turkey, or other Poultry, 5 cents: each of which must be allowed half a pint of grain during the period mentioned above.

7th. The owner or occupant of any land shall be responsible for any damage or damages caused by any animal or animals under his charge and keeping, as though such animal or animals were his own property, and the owner of any animal not permitted to run at large by the regulations of the Municipi-

ality, shall be liable for any damage done by such animal, although the fence enclosing the premises was not of the height required by such regulations.

8. If not previously replevied, the Pound-keeper shall impound any horse, bull, ox, cow, sheep, goat, pig or other cattle, geese or any other poultry, distrained for unlawfully running at large, or for trespassing and doing damage, delivered to him for that purpose by any person resident within the Township who has distrained the same; or if the owner of any geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbours' premises after a notice in writing has been served upon him of their trespass, then the owner of such poultry may be brought before any Justice of the Peace, and fined such sum as the Justice may direct.

9. The owner of any animal impounded shall at any time be entitled to his animal, on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the Pound-keeper for all costs, damages and poundage fees that may be established against him, but the person distraining and impounding the animal shall, at the time of such impounding, deposit poundage fees, if such be demanded, and within twenty-four hours thereafter, deliver to the Pound-keeper, duplicate statements in writing of his demands against the owner for damages, if any, not exceeding twenty dollars, done by such animal, exclusive of poundage fees; and shall also give his written agreement (with a surety if required by the Pound-keeper) in the form following, or in words to the same effect:

"I (or we, as the case may be) do hereby agree that I (or we) will pay to the owner of the (*describing the animal*) by me A. B. this day impounded, all costs to which the said owner may be put in case the distress by me the said A. B. proves to be illegal, or in case the claim for damages now put in by me the said A. B. fails to be established."

10. In case the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if the same is distrained by a resident of the Township for straying within his premises, such person, instead of delivering the animal to a Pound-keeper, may retain the animal in his own possession, provided he makes no claim for damages done by the animal, and duly gives the notices hereinafter in that case required of him.

11. If the owner is known to him, he shall forthwith give to the owner notice in writing of having taken up the animal.

12. If the owner be unknown to the person taking up and retaining possession of the animal, such person shall, within forty-eight hours, deliver to the Municipal Clerk a notice in writing of having taken up the animal, and containing a description of the colour, age, and natural and artificial marks of the animal, as near as may be.

13. The Municipal Clerk, on receiving this notice, shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post the notice he receives, or copy thereof, in some conspicuous place on or near the door of his office, and continue the same so posted for at least one week, unless the animal is sooner claimed by the owner.

14. If the animal or any number of animals taken up at the same time be of the value of ten dollars or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the County, if one is published therein, and if not, then in a newspaper published in an adjoining County, and to be continued therein once a week for three successive weeks.

15. In case an animal be impounded, notices for the sale thereof shall be given by the Pound-keeper or person who impounded the animal within forty-eight hours afterwards, but no pig or poultry shall be sold till after eight clear days, nor any horse or other cattle till after having been advertised in a newspaper published in the County for at least three successive weeks.

16. In case the animal be not impounded, but is retained in the possession of the party distraining the same, if the animal is a pig, goat or sheep, the notices for the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is taken up.

17. The notices of sale may be written or printed, and shall be affixed and continued for three clear successive days, in three public places in the Municipality, and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf paying the penalty imposed by law (if any), the amount of the injury (if any) claimed or decided to have been committed by the animal to the property of the person who distrained it,

together with the lawful fees and charges of the Pound-keeper, and also of the Fence-viewers (if any), and the expenses of the animal's keeping.

18. Every Pound-keeper, and every person who impounds or confines, or causes to be impounded or confined, any animal in any common Pound or in any open or close Pound, or in any inclosed place, shall daily furnish the animal with good and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined.

19. Every such person who furnishes the animal with food, water and shelter, may recover the value thereof from the owner of the animal.

20. The value or allowance as aforesaid may be recovered, with costs, by summary proceeding before any Justice of the Peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties or forfeitures for the breach of any By-law of the Municipality may by law be recovered and enforced by a single Justice of the Peace; and the Justice shall ascertain and determine the amount of such value and allowance when not otherwise provided for in this By-law, adhering, so far as applicable, to the tariff of Pound-keepers' fees and charges that are established thereby.

21. The Pound-keeper or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereinafter mentioned.

22. In case it be by affidavit proved before one of the Justices aforesaid, to his satisfaction, that all the proper notices had been duly affixed and published in the manner and for the respective times above prescribed, then if the owner, or some one for him, does not within the time specified in the notices, or before the sale of the animal, replevy or redeem the same in manner aforesaid, the Pound-keeper who impounded the animal, or if the person who took up the animal did not deliver such animal to any Pound-keeper, but retained the same in his own possession, then, any Pound-keeper of the Township may publicly sell the animal to the highest bidder, at the time and place mentioned in the aforesaid notices, and after deducting the penalty and the damages (if any) and fees and charges, shall apply the produce in discharge of the value of the food and nourishment, loss of time, trouble, and attendance so supplied as aforesaid, and of the expenses of driving or conveying and impounding or confining

the animal, and of the sale and attending the same, or incidental thereto, and of the damage when legally claimable not exceeding twenty dollars, to be ascertained as aforesaid, done by the animal to the property of the person at whose suit the same was distrained, and shall return the surplus [if any] to the original owner of the animal, or if not claimed by him within three months after the sale, the Pound-keeper shall pay such surplus to the Treasurer or Chamberlain of and for the use of the Municipality.

23. If the owner within forty-eight hours after the delivery of such statements, as provided in the ninth section of this By-law, disputes the amount of the damages so claimed, the amount shall be decided by the majority of three Fence-viewers of the Municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the Pound-keeper.

24. Such Fence-viewers, or any two of them, shall, within twenty-four hours after notice of their appointment as aforesaid, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the Statutes or this By-law; and if it was a lawful fence, then they shall appraise the damage committed, and, within twenty-four hours after having made the view, shall deliver to the Pound-keeper a written statement signed by at least two of them, of their appraisement, and of their lawful fees and charges.

25. Any Fence-viewer neglecting his duty as arbitrator aforesaid, shall incur a penalty of two dollars, to be recovered for the use of the Municipality, by summary proceeding before a Justice of the Peace, upon the complaint of the party aggrieved, or the Treasurer or Chamberlain of the Municipality.

26. If the Fence-viewers decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees, to the Pound-keeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof; but if not claimed, or if such fees and charges be not paid, the Pound-keeper, after due notice, as required by this Act, shall sell the animal in the manner before mentioned, at the time and place appointed in the notices.

27. In case any Pound-keeper or person who impounds or

confines or causes to be impounded or confined, any animal as aforesaid, refuses or neglects to find, provide, and supply the animal with good and sufficient food, water, and shelter as aforesaid, he shall, for every day during which he refuses or neglects, forfeit a sum of not less than one dollar nor more than four dollars.

28. Any other By-law or By-laws, or part of any other By-law or By-laws of the Township of Nichol inconsistent with the enactments above made, shall be, and the same are hereby repealed by the passing of this By-law, save only and except so far as such By-law or By-laws repeal the whole or any part of any other By-law or By-laws.

29. That this By-law shall take effect and come into operation on the 15th day of June A. D. 1869, and continue in force until amended or repealed.

Passed the fifteenth day of June A. D. 1869.

{ L. S. }

JAMES McQUEEN,
Township Clerk.

JOHN MAIR,
Reeve.